

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH
AT JAIPUR
O R D E R

CHANDRA MEHTA VS. STATE OF RAJASTHAN & ANOTHER
(D.B. CIVIL WRIT PETITION NO. 4828/93)

DATE OF ORDER: 4TH SEPTEMBER, 2006.

PRESENT
HON'BLE THE CHIEF JUSTICE SHRI S.N. JHA
HON'BLE MR. JUSTICE SHRI R.S. CHAUHAN

Mr. Vimal Choudhary for the petitioner.
Mr. Sanjay Pareek for the respondents.

BY THE COURT: (PER HON'BLE R.S. CHAUHAN,J.)

Through this Public Interest Litigation (henceforth to be referred to as 'the PIL' for short), the petitioner has sought a number of reliefs from this Court, which are as under :-

- (i) command the respondent Nos. 1 to 3 to furnish and make available information required by the petitioner regarding declaration of development area alongwith their zonal development plans immediately;
- (ii) command the respondent Nos. 2 and 3 to establish a copying section in their respective offices so as to facilitate the public at large to receive copies of relevant record to them in time;
- (iii) command the respondents to quash and set aside the notification dated 7.10.95 (Annexure-A-i) and declare against the provisions of the Act of 1982;
- (iv) command the respondents to abide by the provisions into effect of the Act, 1982 particularly carry on its

duty imposed by section 29 of the Act, 1982 regarding implementation of Master Plan of Jaipur 1971-1996;

(v) restrain the respondents Nos. 2 & 3 in accordance with the sub section (2) of Section 29 of the Act, 1982 from carry out of undertaking any development in any area which is not included in "Development Area under sub-section (i) of Section 29 of the Act, 1982";

(vi) Any other appropriate writ order or direction which this Hon'ble Court may deem fit and proper, be passed in favour of the petitioner;

(vii) Cost of the writ petition be also awarded in favour of the petitioner."

However, during the course of arguments Mr. Vimal Choudhary, the learned counsel for the petitioner, confined his argument only to the prayer clause No. (v), namely, to restrain the Jaipur Development Authority (henceforth, to be referred to as 'the JDA' ,for short) from carrying out any work in an area which has not been declared as "Development Area" under sub-section (1) of section 29 of the JDA Act, 1982 (henceforth to be referred to as 'the Act ', for short). The petitioner's main grievance is that according o Section 29 as soon as a plan comes into operation as provided under Section 24 of the Act, the authority may, by notification in the official gazette, declare any area in the Jaipur region to be "a development

area” for the purpose of this Act. Sub-section (2) of Section 29 states, “save as otherwise provided in this Act the authority shall not undertake or carry out any development of land in any area which is not a developed area”. According to the learned counsel a new Master Plan for the Jaipur region came into effect from September 1, 1988. However, even after the new master plan came into effect, no declaration of “developed area” has been made by the respondent Nos. 2 and 3. Therefore, the petitioner's request that until and unless such a declaration is made by the respondent No. 2 and 3, they should be stopped from developing those areas which have not been declared as “development areas”. According to him the notification dated 7.10.95 is not in conformity with Section 29 (2) of the Act of 1982. Hence the said notification should be quashed.

On the other hand Mr. Sanjay Pareek has argued that once the entire Jaipur region has been declared as “development area” vide notification 7.10.95, there is no need to declare the “development area” in the subsequent master plans. Moreover, urban development cannot be stopped in toto as it is an organic growth of a city which tends to expand and contract with the passage

of time. Since the entire Jaipur region, comprising of large number of villages around Jaipur and including Jaipur City, have already been declared as “development area”, to re-declare the same area as “development area” would be redundant. Therefore, it would be a futile exercise which is unwarranted by Section 29(2) of the Act of 1982.

We have heard both the learned counsels for the parties and have perused the impugned notification.

Jaipur, commonly known as “the Pink City”, is one of the first planned cities of modern India. The city was founded on November 29, 1727 by Sawai Jai Singh. Prior to establishing the city Sawai Jai Singh delved into the European planning for the cities of London and Lisbon. Impressed by the “Chess Board Pattern” of the European cities, Sawai Jai Singh decided to adopt the same pattern for the city of Jaipur. Hence, Jaipur was the first Indian city to be laid out on the European pattern. The tradition initiated by Sawai Jai Singh has continued for the last 200 years till the present time. In order to develop Jaipur systematically, in order to plan the future growth of Jaipur, in 1982, the Jaipur Development Authority was

established for the purpose of systematic growth of Jaipur City. Since the population was rising, it was felt necessary to declare areas contiguous to the city as “Jaipur region” and to establish an Authority for the purpose of planning, coordinating, and supervising the proper, orderly and rapid development of these areas. Since the other local bodies also existed, such as the Municipal Corporation and the Gram Panchayats etc., it was felt that the Act should also provide that the Authority be enabled either itself or through the other authority to formulate and execute plans, project and scheme in the development of Jaipur region. It was with this purpose that a Master Plan was created which initially started from 1991 and ended in 1996. On September 1, 1998, a new Master Development Plan-2011 came into effect. While the earlier plan was in effect, the notification dated 7.10.95 was made declaring the entire “Jaipur region” as “the development area”.

Urban planning is a continuous process that changes according to the needs of the population, according to the increase in the population, according to the geographical conditions of the area. Thus no master plan reveals a static position but only lays down the guidelines for the dynamic development of a city. The Master Plan,

therefore, needs changes, amendments, corrections, depending on the needs of the inhabitants. Once the entire “Jaipur region” has been declared as “the development area”, there is no need for further proclamation as the entire area constituted as “Jaipur region” is included in the notification dated 7.10.95. To insist upon a re-notification is to ask for a redundancy to be performed - a formality to be observed. Once the notification has been published, it has been made clear to the public at large that the entire Jaipur region constitutes the development area, and the authority is authorised to carry out its schemes, plans and developmental work. Hence, the first contention of the learned counsel that the area needs to be redeclared as “development area” has no merit.

The second contention raised by the counsel that all developmental work should be stopped as the “development area” has not been declared under the new Master Plans is fraught with dangers: firstly, the developmental work carried out by the authority is for the benefit of the people. Therefore, a beneficial work ordinarily should not be interfered with by the judiciary. Secondly, the planning and execution of every project should be completed within the shortest feasible period. The interference by the judiciary may

cause delay in the completion of the project which would certainly increase the cost of the project. Such a delay and increase in cost would adversely effect the State exchequer. Hence, the judiciary should be cautious in interfering with such projects. The judicial interference is called for only in two instance: firstly, when projects are carried out in violation of law. Secondly, when fundamental rights of an individual are adversely affected. But in the second instance, a balance has to be struck between the rights of the individual and the public interest. The learned counsel is unable to show as to how the development work carried out by the respondent No. 2 and 3 violates the provisions of the Act or adversely affects the fundamental rights of the people. Therefore, unless and until strong cogent reasons exists warranting such an interference by the judiciary, we would refrain from interfering with urban planning and development. Therefore, we are not inclined to restrain the respondent No. 2 and 3 from carrying out its developmental projects.

In the result, this petition has no force. It is, hereby,
dismissed.

(R.S. CHAUHAN)J.

(S.N. JHA)CJ.

MRG.